

Environmental Protection Agency

§ 63.5

M = molar
N = normal
O.D. = outside diameter
% = percent

[59 FR 12430, Mar. 16, 1994, as amended at 67 FR 16598, Apr. 5, 2002]

§ 63.4 Prohibited activities and circumvention.

(a) *Prohibited activities.* (1) No owner or operator subject to the provisions of this part must operate any affected source in violation of the requirements of this part. Affected sources subject to and in compliance with either an extension of compliance or an exemption from compliance are not in violation of the requirements of this part. An extension of compliance can be granted by the Administrator under this part; by a State with an approved permit program; or by the President under section 112(i)(4) of the Act.

(2) No owner or operator subject to the provisions of this part shall fail to keep records, notify, report, or revise reports as required under this part.

(3)–(5) [Reserved]

(b) *Circumvention.* No owner or operator subject to the provisions of this part shall build, erect, install, or use any article, machine, equipment, or process to conceal an emission that would otherwise constitute noncompliance with a relevant standard. Such concealment includes, but is not limited to—

(1) The use of diluents to achieve compliance with a relevant standard based on the concentration of a pollutant in the effluent discharged to the atmosphere;

(2) The use of gaseous diluents to achieve compliance with a relevant standard for visible emissions; and

(c) *Fragmentation.* Fragmentation after November 15, 1990 which divides ownership of an operation, within the same facility among various owners where there is no real change in control, will not affect applicability. The owner and operator must not use fragmentation or phasing of reconstruction activities (i.e., intentionally dividing reconstruction into multiple parts for purposes of avoiding new source re-

quirements) to avoid becoming subject to new source requirements.

[59 FR 12430, Mar. 16, 1994, as amended at 67 FR 16598, Apr. 5, 2002]

§ 63.5 Preconstruction review and notification requirements.

(a) *Applicability.* (1) This section implements the preconstruction review requirements of section 112(i)(1). After the effective date of a relevant standard, promulgated pursuant to section 112(d), (f), or (h) of the Act, under this part, the preconstruction review requirements in this section apply to the owner or operator of new affected sources and reconstructed affected sources that are major-emitting as specified in this section. New and reconstructed affected sources that commence construction or reconstruction before the effective date of a relevant standard are not subject to the preconstruction review requirements specified in paragraphs (b)(3), (d), and (e) of this section.

(2) This section includes notification requirements for new affected sources and reconstructed affected sources that are not major-emitting affected sources and that are or become subject to a relevant promulgated emission standard after the effective date of a relevant standard promulgated under this part.

(b) *Requirements for existing, newly constructed, and reconstructed sources.*

(1) A new affected source for which construction commences after proposal of a relevant standard is subject to relevant standards for new affected sources, including compliance dates. An affected source for which reconstruction commences after proposal of a relevant standard is subject to relevant standards for new sources, including compliance dates, irrespective of any change in emissions of hazardous air pollutants from that source.

(2) [Reserved]

(3) After the effective date of any relevant standard promulgated by the Administrator under this part, no person may, without obtaining written approval in advance from the Administrator in accordance with the procedures specified in paragraphs (d) and (e) of this section, do any of the following: